IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15938 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JOSHI VISHAL JASHVANTRAY - Petitioner(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR KIRIT R PATEL for Petitioner(s) : 1,MR LALIT V PATEL for Petitioner(s) : 1,
MR HEMANG PARIKH AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 25/06/2007

ORAL JUDGMENT

1. **RULE.** Mr. Hemang Parikh, learned A.G.P., waives service of rule on behalf of respondents. At the request of the learned advocates for the

parties, the matter is taken up for final hearing today itself.

2. This petition is filed for seeking appropriate direction on respondents to carry out necessary change in his birth certificate. It is the say of the petitioner that he was born on 05/07/1983. The necessary entry was made in the birth register under the provisions of Birth and Death Registration Act. However, in the said register the birth date was wrongly mentioned as 01/09/1983 instead of 05/07/1983. When he learnt about the discrepancy, he approached respondent authority i.e., respondent no. 2 with a request to effect necessary change in the birth certificate. However, the request was turned down by respondent no. 2 on the ground that after a lapse of 15 years from the date of birth, such request cannot be entertained because it has no power to make any change in the birth record. The petitioner wants to get the date corrected on the basis of the date of birth mentioned in the school leaving certificate, which according to him, is the correct birth date.

3. I have heard Mr. Kirit Patel learned advocate for the petitioner and Mr. Hemang Parikh, learned A.G.P., for respondents. Mr. Kirit Patel learned advocate for the petitioner has submitted that the respondent no. 2 by virtue of provisions of Section 15 of the Registration of Birth & Death Act, 1969. has power for correction or cancellation of entry in the Register of Births and Deaths. To substantiate his submission he has also placed reliance on the relevant provisions and the order of the learned Single Judge dated 9th October,

2006 rendered in Special Civil Application No. 19683/2006 and its allied matters.

"<u>Section 15</u>: Correction or cancellation of entry in the register of births and deaths.

> If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation."

<u>Rule 11</u> : **Correction or cancellation of entry in the register of births and deaths** :

1. If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him and if the register is in his possession, the Registrar shall inquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or canceling the entry) as provided in Section 15 of the Act and shall sent an extract of the entry showing the error and how it has been corrected to the District Registrar of Births and Deaths.

2. In the case referred to in sub rule (1) if the register is not in the possession the Registrar, he/she shall make a report to the District Registrar of Births and Deaths and call for the relevant register and after inquiring into the matter, if he is satisfied that any such error has been made,make the necessary correction.

3. Any such correction as mentioned in sub rule 2 shall be countersigned by the District Registrar of Births and Deaths when the register is received from the Registrar.

4. If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 of the Act upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case.

5. Notwithstanding anything contained in sub-rule (1) and sub-rule (4) the Registrar shall make report of any correction of the kind referred to therein giving necessary details to the District Registrar of Births and Deaths.

6. If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been made fraudulently or improperly, he shall make a report giving necessary details to the officer authorized by the Chief Registrar by general or special order in this behalf under Section 25 of the Act an on hearing from him take necessary action in the matter.

7. In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under Section 8 or Section 9 of the Act.

3.1. The learned Single Judge in his order dated 9th October, 2006 in paragraphs 4.1 and 4.2. has quoted the aforementioned provisions of law and thereafter in paragraph 4.3. has held as under :-

> "4.3. In pursuance of the aforesaid provision of Act as well as Rules, the respondent authority shall carry out necessary changes in the register upon arriving satisfaction as to change of birth date/name on the basis of evidence laid by the petitioners."

4. In view of the same, the respondent authority is directed that it shall consider the application of the petitioner for change in the date of birth in

the birth certificate and upon arriving at satisfaction as to the change in date of birth, shall decide the application accordingly and intimate to the petitioner the decision within seven days thereafter.

5. With the aforesaid directions, the petition is allowed. Rule is made absolute.

[Akshay H. Mehta, J.]

* Pansala.